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REMARKS

Applicants have amended claims 29 and 31. Care had been take to avoid the introduction of new matter. Claims 29, 31, 48-52 and 55-59 are presently pending in the application.

The Office Action rejected claims 29, 31, 48-52 and 55-59 under 35 U.S.C. 103(a) as being unpatentable over WO '928 (WO 97/07938) in view of Vassiliadis et al. (U.S. Patent No. 5,324,200).

Applicants continue to traverse this rejection, and respectfully submit that neither of the prior-art references appear to contain any suggestion of processes as claimed wherein a second placement is immediately conducted with less moisture than the first.

It is respectfully submitted that, even before the entering of the current amendment, the claims fully met the requirements of the relevant patent statute. It is thus Applicants' position that the rejection under 35 U.S.C. § 103(a) was not properly imposed by the Office Action.

In an effort to expedite the prosecution of the present application, however, Applicants have amended the current claims, not so much as to overcome the outstanding rejection but rather to further define one or more aspects of the present invention. For example, claim 29 has been amended to further define the temporal relationship between the placing of moisture action and the subsequent focusing or directing of electromagnetic energy action, and clam 31 has been amended to further define the temporal relationship between the first and second time periods.

Neither of the two cited prior-art reference discloses any of the presently claimed combinations of actions including, among other things, the use of an anesthetic or vassal

constrictor during the immediately-following second (or final) application of electromagnetic energy to a treatment area, and there is no substantiated motivation to incorporate such an action during the final pass of the combination of actions proffered by the Office Action to meet the currently claimed combinations of limitations.

Clearly, Applicants do not consider the two references to be combinable. Applicants have previously discussed, at length, how these two references would not appear to be combinable to meet the claimed limitations, and incorporate that discussion herein. Even if they were to be combined, however, Applicants submit that the result would not contain a second placement, immediately following the first, with less moisture than the first.

Any such hypothetical combination of the two cited prior-art references, such as set forth in the Office Action, would not appear to meet the claim 29 language of, among other things, "...directing electromagnetic energy ... [while] simultaneously placing moisture comprising an anesthetic and a vasal constrictor ... [and then] directing electromagnetic energy ... , immediately following the placing, without any simultaneous placement of moisture" (emphasis added).

Moreover, any such combination would not appear to meet the claim 31 language of, among other things, "directing electromagnetic energy ... during a first time period; placing first amounts of moisture comprising an anesthetic and a vassal constrictor ... during the first time period ... directing electromagnetic energy ... during a second time period, which immediately follows the first time period; and placing second amounts of moisture ... less than the first amounts of moisture and containing no or lower concentrations of anesthetic and vassal constrictor than the first amounts" (emphasis added).

It is submitted that the presently pending dependent claims are allowable at least because of their dependencies upon independent, amended claims 29 and 31, and further because of the additional limitations recited in those dependent claims.

Regarding the Office Action's statement on page 2 that the current claims do not contain a limitation of a second placement with less moisture than the first, Applicants respectfully request that the Examiner explain the basis of his opinion as Applicants do not follow his line of reasoning.

In connection with the Office Action's statement on page 2 that a person having ordinary skill in the art would understand that any clean-up process would be formed at the end of the procedure, Applicants request that the Examiner point to support of this understanding in the documents of record and provide a detailed statement of how such an understanding, if presumed hypothetically to be true, would render each of the limitations in the current claims (or, at a minimum, each of the independent claims) as having been obvious.

Also, regarding the Examiner's statement on page 2 of the Office Action that (1) it would have been well within the scope of a person having ordinary skill in the art to perform a procedure, as claimed, in a protracted fashion, and that (2) such a procedure as claimed would have been known by one having ordinary skill to require a re-desensitized step, in a fashion to meet the current claim limitations, part way through the procedure, Applicants request that the Examiner point to proof of these statements in the documents of record. Applicants further request that the Examiner provide a detailed statement of how such procedures and modifications to those procedures, as set out in (1) and (2) above, if presumed hypothetically to be true, would render each of the limitations in the current claims (or, as before, at a minimum, each of the independent claims) as having been obvious to one of ordinary skill in the art at the time of the invention.

In view of the above, Applicants request that the outstanding rejection under 35 U.S.C. 103(a) be reconsidered and withdrawn. Applicants respectfully submit that the application is now in condition for allowance, and an early indication of same is requested. The Examiner is invited to contact the undersigned with any questions.

Date: December 11, 2006

Respectfully submitted,

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